

Notice of Allowability

Application No.

10/595,270

Examiner

David N. Spector

Applicant(s)

KAUFMAN ET AL.

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application filed 6/14/2006.
2. ☒ The allowed claim(s) is/are 1-10 and 28-38.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 0706/20060726
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Claims 1-10 and 28-38 are allowed. Claims 11-27 and 39-64 were canceled by applicants' under a preliminary amendment. All pending claims thus being allowable, prosecution on the merits is closed in this application.

Reasons for Allowance

The following is a statement of reasons for the indication of allowable subject matter: the prior art taken either singly or in combination fails to anticipate or fairly suggest the features/limitations of applicant's independent claims, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. More specifically, in regard to these independent claims,

Independent Claim 1 the prior art taken either singly or in combination fails to anticipate or fairly suggest an apparatus for enhancing the vision of a user comprising, *inter alia*, a focal modulating device adapted to focus light onto the retina of a users eye, while: "alternating between at least first and second focal states that are characterized by different, respective first and second focal depths, at a rate in excess of a flicker-fusion frequency of the user" (Claim 1, Lines 4-6), taken together in combination with the totality of particular features/limitations recited therein; and

Independent Claim 28 the prior art taken either singly or in combination fails to anticipate or fairly suggest a method for enhancing the vision of a user comprising, *inter alia*, focusing light onto the retina of a users eye: "in alternation between at least first and second focal states that are characterized by different, respective first and second focal depths, at a rate of alternation that is in excess of a flicker-fusion frequency of the user" (Claim 28, Lines 3-5), taken together in combination with the totality of particular features/limitations recited therein.

Other Remarks/Information

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be labeled "Comments on Statement of Reasons for Allowance."

The International Search Report (PCT/ISA/210) and the Written Opinion of the International Searching Authority (PCT/ISA/237) prepared by the European Patent Office on 02/25/2005 and

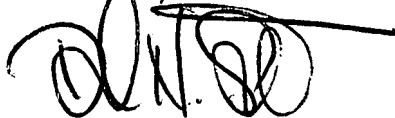
04/03/2006, respectively, for the parent (PCT/IL04/00786) for the instant National Stage application. All of the documents and other material cited in the PCT/ISA/210 and PCT/ISA/237 have been considered by the examiner in the prosecution of the instant application.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cox (U.S. Patent No. 7,118,214 B2) discloses apparatus providing presbyopia correction in the form of a multifocal translating style alternating vision contact lens or a simultaneous vision style correcting lens; Blum et al. (U.S. Patent No. 7,018,040 B2) discloses an electro-active contact lens system which provides vision correction of one or more focal lengths; Klein (U.S. Patent No. 4,842,400) discloses visual apparatus to limit the instantaneous luminous intensity without reducing the field of vision which includes liquid crystal modulator elements operated at frequencies in excess of the flicker-fusion rate of the user.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any other inquiry concerning this communication or earlier communications from the examiner should be directed to David N. Spector whose telephone number is (571) 272-2338. The examiner can normally be reached at this number Monday through Friday between 6:00 AM and 2:30 PM. The Official FAX number for the United States Patent and Trademark Office is (571) 273-8300.

June 15, 2007

A handwritten signature in black ink, appearing to read 'D. N. Spector', with a long horizontal line extending to the right.

David N. Spector
Primary Examiner
Art Unit 2873